

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 945 (S/B) of 2002

Ram Bahadur

S/o Neem Bahadur

R/o Red Cross Multi Purpose

Welfare Hospital Compound

(Canal Colony No. 2) Gularbhoj

Tahsil Gadrapur Distrcit Udham

Singh Nagar.

.....Petitioner

Vs

Secretary General, Indian Red Cross

Society1-Red Cross Road, New Delhi-110001

and others.

.....Respondents

Counsel for the petitioner Sh.Nand Prasad

Counsel for the respondent Sh. B.S. Khanka

Dated:- 16-4-2004

Hon'ble Rajesh Tandon J.

Heard Sh. Nand Prasad learned counsel for the petitioner and Sh. B.S. Khanka for the respondent.

By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus to the respondents to regularize the service of the petitioner and till then pay him the minimum wages from the date of appointment to him.

Brief facts giving rise to the present writ petition are that the Indian Red Cross Society has been constituted under the Indian Red Cross Society Act, 1920(Act No. 15 of 1920). The President of India is Ex-officio President of this society and the Union Health Minister is the chairman of the Executive body of the Indian Red Cross Society.

The Indian Red Cross Society runs and manages various charitable Hospitals all over India specially at the backward and tribal areas. There is a Multi purpose Welfare Hospital also known previously as maternity and child welfare center at Gularbhoj Tehsil Gadarpur District Udham Singh Nagar which is run and managed by the local unit of the India Red Cross Society. The respondent No. 2 is the Incharge of the local hospital at Gularbhoj, which has a capacity of thirty beds.

According to the petitioner he was appointed as Peon cum Chowkidar in the above local Red Cross Hospital at Gularbhoj vide the letter dt. 14-4-1997 of the respondent No. 2 after obtaining the approval of the respondent No.1 on daily wage basis at the rate of Rs.30/- per day. The petitioner has worked for more than 240 days in the years 1997, 1998, 1999, 2000, 2001,2002 without break and he is still working as Peon cum Chowkidar in the said hospital as will be clear from the following: -

<u>Year</u>	<u>Days</u>
1997	More than 240 Days
1998	356 days
1999	347 days
2000	259 days
2001	260 days
2002	continuing.

The petitioner has made a representation to the respondent for his regularization in service with no result. The last representation was made in the month of 18 April 2002.

It has been informed that for the same regularization the petitioner has already availed the remedy of regularization before the labour court and as such the writ petition is not maintainable.

However, the labour court is directed to expedite the disposal of the reference within a period of one month after filing of the certified copy of the order. Further the writ petition is not maintainable against the respondent no. 2, as the respondent no. 2 is not covered under Article 12 of the constitution of India. On that ground also the labour court has jurisdiction to decide the matter.

Subject to the aforesaid observations, the writ petition is dismissed. There will be no order as to costs.

(RAJESH TANDON J.)

Dated: - 16-4-2004

M.K.